

September 12, 2022

#22-20S – Special Permit – Cassidy Hill Vineyard

Location: 454 Cassidy Hill Road (Assessor's Map 1, Block 28, Lot 5)

Zone/Lot Size: GR 80 Zone/96.5 acres +/-

Intent: Special Permit Modification

Application Received: June 27, 2022

Application Acknowledged: June 27, 2022

Public Hearing Opened: August 8, 2022

Public Hearing Continued: September 12, 2022

Review: A great deal of testimony was provided from both the applicant's team as well as from the public on the subject application. The public hearing was continued due to the volume of information that was received, and the fact that the applicant's engineer was requested to formally respond to the Town Engineer's comments relative to the Traffic Report.

The applicant's engineer provided a formal response which was in turn reviewed and responded to by the Town Engineer. Please see the enclosed copy. Please see the enclosed memorandum from the Town Engineer, dated September 7, 2022, which provides additional comments. Also, please see the accompanying email from the Town Engineer. Please note the Town Engineer's comments in regard to bullets two, three, six, eight – as they are recognized as not being fully addressed. The applicant should discuss how they will address them.

Comments have continued to be submitted from the public since the opening of the public hearing. Please see the enclosed copies of the following:

: Copy of Howard Haberern public hearing comments.

: Correspondence from James and Nancy Francis who reside on Cassidy Hill Road.

: Email communications from Kelly Barber, Cassidy Hill Road resident, to Town Staff.

In order to help guide the Commission's deliberation on the subject application, Staff offers the following below which highlights the pertinent sections of the Zoning Regulations, reflects on the context of what was originally approved by the Commission, and thoughts on potential considerations for conditions of approval that will enable adequate monitoring and operational oversight to insure that the use will continue to comply with the Commission's approval.

It will be important for the Commission to consider the conditions and original Special Permit approval to evaluate the proposed modifications, including expansions to what was initially conceived by the applicant. A copy of the original statement of use and 2011 approval letter was provided at the first meeting.

The Commission will need to consider Section 4.06.07 a –d (Musical Entertainment) for guidance relative to the outdoor music events. This provides insight and criteria on how to best mitigate impacts associated with the intended music oriented events.

Section 7.03.06 (Standards for Special Permits) a – c criteria must be carefully evaluated (as applicable) by the Commission when considering how the proposed modifications to the use will harmonize with the vicinity. Section 7.02.07 (Site Plan Review Standards for Commission Review) 1-10, must be carefully evaluated (as applicable) by the Commission as well. The applicant's attorney provided specific responses to how they will be complying with these criteria during the public hearing. Please refer to the meeting minutes for further details.

Key changes with the subject application involve an increase in the number of events per year, an introduction of 'non-music events', days of the week and hours when they will occur – beyond the Friday night music events. The Commission should carefully consider this aspect of the proposal. The Commission can modify what is being proposed by the applicant or agree to what has been proposed.

A detailed traffic operations plan for the outdoor events has been recommended by the Town Engineer, separate from the Traffic Report. Staff believes that this 'blueprint' for week to week operations, that would be approved the Commission, can serve to insure the proper execution of on and off street procedures that are put into place.

The Town Engineer also suggested a weekly traffic summary report be submitted to the Town to collect, record, and report on the following: weather, event type, vehicle count, vehicles turned away, parking issues, and other pertinent data. Town Staff can assist with creating this report that will assist in insuring compliance with the Commission's approval over time.

During the public hearing, the matter of educating the patrons of the Winery about traffic operations, respecting speed limits, and the nature of the neighborhood was discussed. This can be in the form of social media, print media, and other methods. This can be another mechanism to assist in creating and maintain a culture of mindfulness by the guests of the Winery. Town Staff can assist with this as well.

It has been recognized that there is a lack of sufficient clear and detailed traffic data about the Winery and the Friday night music events. Having the opportunity to acquire this information

during the time when the use is active would be helpful in assessing the actual traffic impacts. This could be a potential condition of approval that would shed light on the matter.

Staff has conferred with the Town Attorney on the potential application of a time limit to a special permit approval. This is reflected in Section 4.06.07a-d criteria of the Zoning Regulations that pertains to musical entertainment. The Town Attorney has advised that he believes that the Commission has the capacity to apply a time limit to the special permit use that would be less than what is statutorily allowed. This would allow for the applicant to demonstrate that compliance with the Commission's approval can be maintained consistently, allow for a reflection of how the traffic operations are working, and enable the traffic engineer to provide a report that reflects the reality of the traffic impacts. The Commission may recall that this is similar to what was applied to Matt's Outback Paintball on Riley Mountain Road several years ago. It proved to be an effective way to assess the actual impacts of the use and determine compliance with the Commission's approval.

Ultimately, the Commission has several choices on how to render a decision on the application:

: Approve without modifications

: Approve with conditions/modifications

: Deny

If the subject application is denied, the applicant will still have a special permit approval that was previously granted that is valid in order to conduct outdoor social gatherings accessory to a winery on the premises. The approval is conditioned upon compliance with the conditions outlined previously.

As discussed above, conditions to an approval can be carefully crafted to enable the applicant to proceed with the proposed use/modification to use, but with some containment or management of certain aspects that need to be monitored or evaluated further to insure compliance. These matters that are the substance of conditions have been identified during the course of the public hearing. Further, it will be important to be mindful of how enforceable and practical certain conditions will be as they are being executed.